YUKON UTILITIES BOARD
2007-2008 ANNUAL REPORT

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THE BOARD

The Yukon Utilities Board was established pursuant to the *Public Utilities Act,* Revised Statutes, 1986. c. 143, as amended. Section 2 of the Act defines the Board as comprised of not less than three and not more than five members. Section 4 provides for the appointment of a substitute member to act in the absence of a member of the Board. The Chair, Vice-Chair and members are appointed by the Minister of Justice for terms of three years. Members can also be appointed to serve subsequent terms, at the discretion of the Minister of Justice.

The Board office is located at Unit 19, 1114 First Avenue (second floor of the Horwood's Mall) in Whitehorse, Yukon. Our mailing address is:

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The Board retains independent legal advisors and qualified technical consultants, and it contracts with a part-time Executive Secretary.

The Board regulates two electrical utilities in the Yukon, the Yukon Energy Corporation (YEC) owned by the Government of Yukon, and the privately owned Yukon Electrical Company Limited (YECL). The Board carries out such other functions as are required by the *Public Utilities Act* and as directed by the Minister of Justice as ordered through the territorial government's Orders-in-Council.

Under Section 52 of the *Public Utilities Act*, and following the principles of natural justice, the Board may, with respect to an inquiry:

- exercise the exclusive jurisdiction and authority to determine any question of fact, law or mixed fact or law required to be decided;
- receive such evidence or other information as it considers appropriate, whether or not such evidence is given under oath or affirmation, and whether or not it would be admissible in a court of law;
- exercise the powers, privileges, and immunities of a Board of Inquiry under the *Public Utilities Act*;
- determine the persons to whom notice of any proceedings shall be given; and
- determine its own procedures.

Board Orders are reviewable by the Yukon Court of Appeal.

The Board's authority includes carrying out investigations and reviews at the request of the Minister of Justice pursuant to the *Public Utilities Act*, namely Regulation of Public Utilities (Part II) and the regulation of Energy Projects (Part III). The Board is also empowered to investigate complaints and initiate investigations it deems necessary in the interest of ratepayers generally (Part IV).

Funding for public hearings can only be authorized by the Minister of Justice.

MEMBERSHIP

Board membership during the reporting period consisted of:

Chair	Wendy Shanks
Vice-Chair	Malcolm Florence*
Member	Michael Phillips **
Member	Richard Hancock
Member	Jody Woodland

* Member resigned during this reporting period.
** Member's term ended during this reporting period.

BOARD SUPPORT

Board Support during this reporting period was provided by:

Executive Secretary	Deana Lemke Beyond Words Business Services Whitehorse, Yukon
Technical Support	Alberta Energy and Utilities Board
Regulatory Legal Support	Alberta Energy and Utilities Board

THE YEAR IN REVIEW

Board Meetings

There were 11 Board meetings in this fiscal year, held on:

April 6, 2007
April 30, 2007
May 25, 2007
September 12, 2007 (two separate meetings)
September 28, 2007
January 9, 2008
January 10, 2008
January 28, 2008
February 13, 2008
March 5, 2008

CAMPUT

The Yukon Utilities Board continues to be an active member of the Canadian Association of Members of Public Utilities Tribunals (CAMPUT). The Board relies on CAMPUT and the Alberta Energy and Utilities Board to provide most of the training for the Board members.

The CAMPUT Annual General Meeting was held in St. John's, Newfoundland, September 9-12, 2007.

This year, the Vice-Chair attended the CAMPUT educational conference from April 29 to May 2, 2007 in Kelowna, BC. This year's theme was "New Frontiers in Energy Regulation, Supply and Markets".

Board Member Jody Woodland attended a course on energy regulation, hosted by CAMPUT and Queen's University in Kingston, Ontario from July 2-6, 2007

HEARINGS

The Board was involved in two proceedings during the 2007-08 fiscal year. One was related to the Yukon Energy Corporation-Minto Power Purchase Agreement, and the other was related to the Carmacks-Stewart Transmission Project.

Yukon Energy Corporation-Minto Power Purchase Agreement

On June 1, 2006, Yukon Energy Corporation (YEC) filed an application with the Board to review its 20-Year Resource Plan: 2006-2025 to address Yukon's major electrical generation and transmission needs. The Resource Plan set out YEC's expected near-term and longer-term requirements. Four near-term projects were proposed in the Resource Plan. Four alternatives, based on various scenarios to meet the needs of industrial customers, were set out to meet longer-term requirements. Certain near-term planning activities were proposed to protect longer-term options to address new load requirements.

On June 5, 2006, the Minister of Justice of the Government of Yukon requested the Board to review and hold a hearing on the Resource Plan. The Board was to forward its report on its findings to the Commissioner in Executive Council, and make the report public, by October 31, 2006 (this date was extended to January 15, 2007 by letter dated August 29, 2006). Specifically, the Minister of Justice requested the Board review the proposals in the Resource Plan with emphasis on:

i) those projects related to the Resource Plan which require commitments by YEC before the year 2009 for major investments with anticipated costs of $3 million or more for feasibility assessment and engineering, environmental licensing, or construction; and
ii) planning activities related to the Resource Plan which YEC may be required to carry out in order to commence construction on other projects before the year 2016 to meet the needs of potential major industrial customers or other major potential developments in Yukon.

Further specifics regarding the scope of the review requested were stated in the June 5, 2006, letter from the Minister of Justice.

An oral hearing into YEC's 20-Year Resource Plan was held November 14 to 16, 2006, during which time YEC indicated that it had undertaken a number of planning activities with respect to the Carmacks-Stewart Transmission Project and it had reached agreement on key terms of a Power Purchase Agreement (PPA) with the Minto Mine owners, who plan to complete construction of the Minto Mine in 2007.

In a letter to the Board dated December 31, 2006, YEC outlined the key terms of the PPA agreed to with the Minto Mine owner. These included a $7.2-million customer contribution, a $24-million minimum take or pay power purchase

provision within the first eight years of YEC service, and security to be provided by the mine owner for these commitments.

In its December 31, 2006, correspondence to the Board, YEC indicated it would be filing an application with the Board for approval once the YEC-Minto PPA was finalized, prior to the end of January 2007. The Board provided its recommendations related to the hearing into YEC's 20-Year Resource Plan on January 15, 2007, which reiterated that the finalized PPA should be submitted to the Board for full review by the Board and Intervenors and subsequent approval by the Board. On February 9, 2007, YEC filed the finalized PPA for review and approval by the Board.

The Board considered the PPA review to be a continuation of the 20-Year Resource Plan Review proceedings and set a schedule to review the PPA. This proceeding was initiated in the 2007-08 fiscal year and it continued into the subsequent fiscal year.

Carmacks-Stewart Transmission Project (CSTP)

On June 5, 2006, the Minister of Justice required that the Board carry out a review and hold a hearing on Yukon Energy Corporation's 20-Year Resource Plan: 2006-2025. As part of that Resource Plan, YEC sought approval for Stage One of the proposed CSTP.

The proposed Project was designated as a regulated project under Part 3 of the *Public Utilities Act*, and on April 2, 2007, YEC applied under Part 3 of the *Public Utilities Act* for an energy project certificate and an energy operation certificate regarding the proposed Project. On April 2, 2007, the Minister of Justice directed the Board by letter to review the application and conduct an oral hearing as part of its review. The Minister's letter included Terms of Reference for the review which, along with setting out the purpose and scope of the review, required the Board to submit its report and recommendations to the Minister by no later than May 31, 2007.

The application described the proposed CSTP as a new 138-kV transmission line, approximately 172 km between Carmacks and Stewart Crossing, that would connect the 138 kV Whitehorse-Aishihik-Faro grid and the 69 kV Mayo-Dawson grid. In addition, new transmission substations in Carmacks and Pelly Crossing and an expansion of the Stewart Crossing substation were proposed.

The Board established a process for the Part 3 review and hearing of the CSTP, based on the Terms of Reference from the Minister of Justice. A hearing took place in Whitehorse, Yukon on May 15 and 16.

The Board submitted a report to the Minister of Justice on May 31, 2007, which included the following recommendations (extracted from the report):

- **Public Need for CSTP:** The Board finds that YEC has followed the recommendation of the Yukon Utilities Board in the YEC 20-Year Resource Plan Report with respect to the filing requirements for new facilities. Within its submissions Yukon Energy Corporation has outlined the risks of proceeding, benefits and potential costs to ratepayers, and economic life sensitivities. YEC has demonstrated public benefits under its baseload and baseload with mines load scenarios for this project. For this section of the report, the CSTP meets the requirements related to Minto, provides opportunity for other potential major industrial customers and falls within reasonable electric load forecasts. Therefore, the Board is satisfied that YEC has established the public need for the CSTP. (Page 5)
- **Capability of Existing Transmission and Generation Facilities — Aishihik Third Turbine:** If Stage One were to go forward, then by implication, there is an accelerated need for the third turbine at Aishihik. The Board accepts the submissions that on an opportunity basis for diesel displacement, with connection of new mine loads, there is economic justification to accelerate the construction of the Aishihik third turbine. This view and recommendation is consistent with the view expressed by the Board in its YEC 20-Year Resource Plan Report. However, the Board recommends that any government funding for the Aishihik third turbine be applied directly to the rate base before consideration of any costs overruns or potential disallowances from the Board. (Page 7)
- **Stage Two of the CSTP:** The Board's view is the same as that expressed in the YEC 20-Year Resource Plan Report, that is, YEC should not pursue Stage Two of the CSTP unless there is a firm commitment to connect a new mine load, and under the condition that ratepayers would not be adversely affected. Although the project was identified in the 20-Year Resource Plan, insufficient information has been provided with respect to this stage. The conditions for the Board's recommendation from the January 15, 2007, report have not been met. Based on YEC's evidence and the commitment from Government of Yukon, the Board considers that an additional condition should be added — that being, Stage Two should only be committed without any adverse impacts to other ratepayers. The Board recommends that Energy Project and Energy Operation Certificates not be issued for Stage Two until such time as the above two conditions are met (there is a firm commitment to connect a major industrial load such as the Carmacks Copper Mine and there will be no adverse impacts to other ratepayers). When the conditions are met, the Board recommends that a joint Part 3 and PPA process take place. As there is some overlap of issues between a Part 3 and PPA proceeding, the Board considers that a joint process would be more efficient. Further, the Board recommends that in the future, more time be provided for this process. This could also allow for the possibility of a written proceeding, which should be less costly. (Page 9)
- **Diesel Generation:** The Board accepts the evidence presented by YEC with respect to reductions in CO_2 emissions as a result of proceeding with

Stage One of the CSTP. Based on this evidence, the Board concurs that from a diesel displacement and CO_2 emission reduction perspective, Stage One of the CSTP is beneficial. (Page 10)

- **Risks Facing the CSTP:** In the Board's January 15, 2007, YEC 20-Year Resource Plan Report, the Board stated at page 46 that it was convinced that the line would result in net benefits to ratepayers. The Board understands that if the Mine closes prematurely in year one or two, then net benefits to customers might not occur. However, the evidence clearly establishes an expectation that there will be net benefits to ratepayers. The increased level of Government of Yukon funding that was detailed in the April 2, 2007, application as well as the government guarantees described in YEC's May 14, 2007, letter regarding the revised PPA have substantially reduced, although not completely eliminated, risks to ratepayers. It is not possible to quantify this remaining risk, but the Board understands that this is a low risk and that this is not a scenario that is expected to occur. In the Board's view, the evidence indicates that with the increased funding and guarantees, there is no reasonable expectation of risk to ratepayers, assuming that capital costs are not substantially more than the high end of existing estimates — in which case YEC may decide not to proceed. The Board considers that in the extreme scenario of a closure of the mine prior to two years of being connected to the grid, there is a risk that ratepayers could face increased rates. However, the possibility of this risk does not amount to an expectation. In the Board's view there are long-term benefits to ratepayers associated with the probable eventual connection of the two grid areas and the displacement of diesel. The probable short- and long-term benefits clearly outweigh the small probability for adverse rate impacts. In the Board's view, it is reasonable for customers to bear this risk in return for the benefits that the project is expected to provide. The Board notes that final agreement does not appear to have been reached with the Northern Tutchone First Nations and that only a memorandum of understanding is in place. The Board expects that YEC will ensure that this agreement is in place before it would proceed with the line, as this could impact the overall costs for the project. The Board recommends that the Minister direct YEC to consult with the Minister before making any decision to proceed if the tendering process results in a capital cost that is materially above the high end of YEC's estimate of $25.9 million or if schedule delays result in the in-service date slipping beyond the end of 2008. The Board recommends that the Minister direct YEC to advise the Minister as to the status of the agreement with the Northern Tutchone First Nations before making any decision to proceed. The Board recommends that the Minister direct YEC to consult with the Minister as to the status of the project and the impact on timing and financial viability of the project if the YESAB review is not completed by August 15, 2007. (Pages 13 and 14)
- **Alternatives to the CSTP:** The Board notes that there was little support for the 35 kV alternative. In the Board's view the 35 kV option is not

attractive because of its inability to contribute to a future connection of the two grids. In addition, switching to this alternative at this time would require a new Power Purchase Agreement and would delay the schedule and result in lost revenue as the Mine would remain on diesel for a longer time period. The Board also notes that the PPA, as well as the agreement with the Northern Tuchone First Nations, was negotiated based on the proposed 138 kV option. The Board recommends that no further consideration be given to the 35 kV alternative. The Board recommends that, in light of the government funding, the YDC guarantees and the contributions to the CSTP by Minto, it is prudent to extend the line to Pelly Crossing at this time. (Pages 14 and 15)

- **Cost Overruns:** Based on the evidence available thus far, there is economic merit in proceeding with the project. However, if costs escalate substantially, YEC management will have to determine whether the project proceeds and at what point the project is no longer financially viable. Further, if YEC proceeds, it will have to demonstrate the prudence of the project and justify the costs it seeks to include in rate base. The recommendation that Energy Project and Energy Operation Certificates be granted does not guarantee that all costs will be allowed into rate base. YEC will have to justify its final business case on the project.
- **Project Reporting and Auditing:** In the YEC 20-Year Resource Plan Report, the Board recommended that YEC adhere to all outstanding recommendations in the auditor General's report and that for any future major project, YEC detail how it has adhered to the recommendations in that report. In light of that recommendation, the Board does not recommend that a special audit of the CSTP be undertaken. Nor does the Board agree that a committee should be formed to monitor the project, as a final justification of the project will occur when an application is received from YEC to include the project in rate base.
- **Power Quality:** The Board is of the view that YEC will ensure that YEC's final design specifications will meet industry standards for power quality.

BOARD ORDERS

Below is a summary of Board Orders approved by the Board during this reporting period. All Board Orders can be viewed on the Board's website at www.yukonutilitiesboard.yk.ca

Order No.	Date	Order
2007-4	**April 6, 2007**	**Carmacks-Stewart Transmission Line Part 3 Review**

Order No.	Date	Order
2007-5	April 30, 2007	Decision denying YEC-Minto Power Purchase Agreement
2007-6	May 25, 2007	Decision approving revised YEC-Minto Power Purchase Agreement
2007-7	September 25, 2007	Cost Awards re YEC 20-Year Resource Plan Proceeding
2007-8	September 25, 2007	Cost Awards re Carmacks-Stewart Transmission Project Proceeding
2007-9	September 28, 2007	Decision to amend Cost-Awards Board Order 2007-7
2008-1	February 13, 2008	Decision to partially award Utilities Consumers' Group Request to Review and Vary Board Order 2007-7
2008-2	March 5, 2008	Reasons for Decision for Board Order 2008-1; process for dealing with partial R&V of Board Order 2007-7